

USSN: 10/014,700  
Atty. Docket No.: 10041/3  
Amdt. dated April 29, 2004  
Reply to Office Action of January 30, 2004

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### REMARKS/ARGUMENTS

Upon entry of the claim amendments, Claims 1-7 and 9-20 will be all the claims pending in the application.

Amended Claims 1 and 14 are supported by the description at page 3, line 14, through page 4, line 5.

New Claims 16-20 are supported by the description at page 3, line 14, through page 4, line 9.

No new matter has been added.

Applicants note with appreciation the Examiner's indication of withdrawn objections and rejections at Section Nos. 7-9, page 7, of the final Action. Applicants respectfully submit that in view of the amended claims and remarks below, the remainder of the rejections should be withdrawn as well.

Each of the prior art rejections presented at Section Nos. 3-6, pages 2-7, of the final Action rely on U.S. Patent 4,726,989 ("US '989") as the primary reference.

The disclosure of US '989, however, has been mischaracterized in the final Office Action. In particular, the nucleating agents of US '989 are not equivalents or analogs of the claimed incompatible material.

The process by which US '989 provides its microporous materials is somewhat complicated. However, a close review of US '989, including the descriptions at column 2, line 5, through column 3, line 41, column 9, line 65, through column 11, line 64, and especially column 3, lines 26-31, and column 11, lines 43-64, makes clear that the pores of its microporous materials are formed by the phase separation that occurs between its crystallizable thermoplastic polymer and its "compound with which the thermoplastic polymer is miscible." A detailed description of the "compound with which the thermoplastic polymer is miscible" is provided at column 7, lines 18-63.

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The role of the nucleating agent in US '989 is to induce crystallization of the polymer from the liquid state and enhance the initiation of polymer crystallization sites so as to speed up the crystallization of the polymer. Column 7, line 64, through column 8, line 7.

Such a role is in fact well-known in the art. Column 1, line 65, through column 2, line 4. It is well-known and understood by the artisan of ordinary skill that nucleating agents change the crystalline nature of a polymer by making many small, orderly crystals rather than the larger ones that would occur in the absence of a nucleating agent. Nucleating agents affect how the polymer acts when processed. A polymer with nucleating agent will become more elastic, flexible, clearer, etc.

A nucleating agent, however, is not a cavitating agent. The applicants of US '989 found a way to employ nucleating agents so as to make their microporous materials have more fibrils per unit volume and to enhance the length of fibrils. But the nucleating agents in US '989 did not cause the formation of the pores of the microporous materials. The pores of the microporous materials of US '989 were formed by the phase separation that occurs between its crystallizable thermoplastic polymer and its "compound with which the thermoplastic polymer is miscible." As clearly explained at column 11, lines 43-64, microporous materials of the type described in US '989 are made with or without nucleating agent.

Therefore, the prior art does not disclose or suggest the film structures of present independent Claims 1 and 14. Specifically, the prior art fails to disclose or suggest the particular combination of HDPE and incompatible material, wherein the incompatible material is selected from the group consisting of an inorganic cavitating agent, polystyrene and polybutylene terephthalate (PBT) (polystyrene and PBT are two particular embodiments of organic cavitating agents).

Accordingly, Applicants respectfully request the reconsideration and withdrawal of the remaining §102 and §103 rejections.

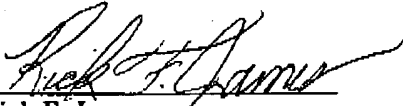
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Reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, she is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date: April 29, 2004

  
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